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**Working Group on Education Decentralization Strategy:  
Position on transfer of asset ownership to Municipalities**

The Working Group on Education Decentralization Strategy (WG) set up by Minister Polozani had discussed the issue of transfer of ownership of school facilities to municipalities. As Macedonia prepares for education decentralization, and as municipalities become the managers of local school networks, the problem of actual legal ownership of school facilities becomes important.

In general the WG considers that if municipalities are given the ownership of school buildings, school facilities and the school equipment, they will take good care of those assets and will have strong motivation to improve the state of school facilities, invest in their renovation, and make long term plans for their better use.

Three problematic issues related to the transfer of ownership were discussed.

1. The disposal of the school facilities for any purpose other than education should require prior approval of Minister of Education of RM. There may be good grounds for sale or change of purpose of the assets, for instance if two schools are merged and one facility is no longer in use, so MOES cannot refuse a request from a municipality without proper justification. But the final approval should rest with the central government.
2. The legal status of a number of school facilities is unclear, and therefore the transfer of their ownership may lead to some difficulties. Also necessary provisions need to be made concerning facilities whose ownership may be in future contested by former owners or their descendants.
3. The debts incurred by the schools for maintenance or investments in the past, that is prior to Phase 1 of decentralization, cannot be passed over to municipalities. This means that the central budget must undertake to pay all the known debts and to cover for all the debts that may become payable in the future.

There are also legal problems that need to be confronted.

1. The present legal system in RM recognizes only state property and private property, so communal property should be introduced. This issue clearly goes beyond education and will become relevant for other assets transferred to municipalities. The WG is of the opinion the MOES should approach the inter-ministerial coordination commission and other ministries with a proposal to create the category of communal property in RM.

2. The detailed legal process of transfer of facilities must be defined. This issue also extends beyond education, and should be tackled by the inter-ministerial coordination commission. In particular, the legal status of the facilities must be clarified prior to their transfer to municipalities.
3. Macedonia has a number of school facilities which are no longer in use. Those buildings are generally in worsening conditions, and something should be done to stop their further deterioration. The WG is of the opinion that transfer of ownership of those facilities to municipalities is not required, but that MOES should no longer be responsible for their use and maintenance. Those facilities can be transferred to other government agencies, transferred to municipalities or sold.

The WG suggests that:

1. MOES addresses the Coordination Body on Decentralization concerning the communal property, and the exact procedures of transferring state property to municipalities. In particular, Coordination Body should decide whether those procedures will be universal, or whether each Ministry should prepare own procedures for its sectoral property transfer.
2. MOES sends to all primary and secondary schools and school facilities a survey concerning the legal status of school property, so that MOES can assess the number of contested ownership rights.
3. Based on this survey, MOES will prepare action plan concerning the clarification of ownership rights prior to passage of schools to municipalities.
4. Using the same survey, MOES should prepare three lists of schools: (1) a list of schools whose property will be transferred to municipalities, (2) a list of schools and education facilities which will not be transferred to municipalities but will remain state institutions (this category may include special or artistic schools, some sports facilities and similar), and (3) a list of school facilities and other buildings and property not currently used for educational services, which will be transferred to other government agencies or sold.
5. MOES prepares a list of outstanding debts coming from past school investments. This list should then become the basis of negotiations with the Ministry of Finance over the resolution of debts.
6. MOES will prepare amendments to the Laws on Primary and Secondary Education concerning the ownership of school property. The amendments will define the procedure for using the school property as transferred to municipalities, and will in particular include a legal requirement that change of destination of the property requires prior consent of MOES.